

### **REMARKS**

Claims 1-5, 7-16, 25-27, 30-31, and 33-34 are presently pending.

#### **I. THE 35 U.S.C. § 112 REJECTION**

Claim 26 was rejected under 35 U.S.C. § 112, 1<sup>st</sup> par., as failing to comply with the written description requirement. The Examiner alleges that, “in the original claims and specification, it was not specified that the door was ‘only’ moved ‘subsequent to the opening of the door of the housing.’” The Examiner went on to hypothesize that “[t]here may be other causes of the movement such as tipping the apparatus”. This rejection is traversed.

In determining whether a written description issue exists, the fundamental factual inquiry is whether the specification conveys with reasonably clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed. *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed. Cir. 1991). An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997).

The subject matter of the claim need not be described literally (*i.e.*, using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement (*see, e.g.*, MPEP § 2163.01).

A description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the Examiner to rebut the presumption. *See, e.g., In re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The Examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description, such “reasonable basis” comprising the discharge of the initial burden of presenting by a

preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976)(emphasis added).

The Examiner's basis for alleging that a person skilled in the art would not recognize in Applicant's disclosure a description of the invention defined by the claims is that "[t]here may be other causes of the movement such as tipping the apparatus". The Examiner's allegation does not establish, by a preponderance of evidence, why a person skilled in the art would not recognize in Applicant's disclosure a method comprising the acts of "opening a door of the housing prior to moving any coin receptacle platform" and "moving, only subsequent to the opening of the door of the housing, a coin receptacle platform from the first position to the second position." Par. [0038] of Applicant's specification recites that "a door 321 prevents unauthorized access to the coin bags 309" and that "[a]t certain times or upon the occurrence of certain events . . . an operator accesses the coin bags 309" wherein "the operator *opens the door 321 and moves the coin receptacle station 304* from an operating position." (emphasis added). Par. [0042] of Applicant's specification recites that "rotatable bag station 404 permits an operator to access each of the coin bags 406 from the front of the coin processing device 400 *after opening a door 413*." (emphasis added). Par. [0051] of Applicant's specification recites that "[i]n operation, an operator of the coin processing device 500 that desires to access the coin receptacles *first opens a front door 520 of the housing 503 to access the coin receptacles*" and then "the operator slides out one of the moveable platforms 504 at a time (as shown in FIG. 6) to access coins contained in the coin receptacles disposed thereon." (emphasis added). Claim 14, as originally presented, also disclosed as aspect of the invention wherein "the housing further comprises a door moveable between an open position and a closed position, *the door permitting*

*a moveable platform to move from the first position to the second position when the door is in the open position.*" (emphasis added). This disclosure shows that the specification conveys, with reasonably clarity to those skilled in the art that, as of the filing date sought, Applicants were in possession of the invention recited in claim 26.

The Examiner's allegation is not legally or factually sufficient to discharge the Examiner's burden to set forth a *prima facie* case supporting the asserted 35 U.S.C. § 112, 1<sup>st</sup> paragraph, written description rejection. Reconsideration and withdrawal is requested.

## **II. THE 35 U.S.C. § 102 REJECTION**

Claims 1-2, and 4 were rejected under 35 U.S.C. § 102(e) as being anticipated by Hino *et al.* (US 2002/0162724) ("Hino"). Reconsideration and withdrawal of this rejection is requested.

The Examiner continues to allege that Hino discloses a "dampening mechanism (See FIG. 4 below, C and 122a); coin receptacle station (120); first end (See FIG. 4 below, C); housing (110); second end (See FIG. 4 below, Back Side (opposite Front Side) of 122a)" (*see* Office Action, page 3). Thus, the asserted "dampening mechanism" is simply a front wall 122a of the drawer 122 (*see* par. [0136]). The front wall 122a serves to stop movement of the drawer 122 at a predefined point upon insertion of the drawer into the coin processing unit 110 housing.

In the Examiner's remarks, the Examiner maintains that, regarding Hino, "[i]n the closing movement, C & 122a create a damping force at the *end* of the movement" (emphasis in original). The Examiner continues on to state that "[f]or the opening movement, either the . . . operator or some other structure that stops the movement generates damping force at the *end* of the movement". Claims 1-2 and 4 recite "a dampening mechanism configured to exert a damping force on the coin receptacle station *during movement of the coin receptacle from the first position to the second position and from the second position to the first position.*" (emphasis

added). Again, the claimed damping mechanism produces a damping force on the coin receptacle station during movement of the coin receptacle from the first position (wherein the coin receptacle station is disposed entirely within the housing for receiving coins) to the second position (the coin receptacle station extending out of the housing) and from the second position to the first position. This is not disclosed by Hino. Even if the Examiner's allegation "[i]n the closing movement, C & 122a create a damping force at the *end* of the movement" were assumed, *arguendo*, to be valid (which it is not), this improper interpretation still *fails* to set forth evidence that such alleged "damping force" is exerted "during movement of the coin receptacle from the first position to the second position and from the second position to the first position." For example, Hino's front wall 122a, even when impacting surfaces C identified by the Examiner, cannot be reasonably argued to exert a damping force "during movement of the coin receptacle from the first position to the second position," wherein the coin receptacle station is disposed entirely within the housing for receiving coins in the first position and wherein the coin receptacle station is extending out of the housing in the second position.

Alternatively, in a second argument, the Examiner alleges that "the wheels 122b create friction, or a dampening force during the entire movement" (emphasis in original) and that "the sides of the interior of 110 and the outside rail of 122 are capable of producing friction, or dampening force during the movement" (see page 11 of Office Action). However, this argument (as well as related arguments, such as those that might rely upon air resistance) fails as well. Claims 1-2, and 4 recite "*a dampening mechanism* configured to exert a damping force on the coin receptacle station during movement of the coin receptacle from the first position to the second position and from the second position to the first position."

The claim language may not be construed in a manner inconsistent with the description of the invention in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315-16 (Fed. Cir. 2005) (*en banc*). Further, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970)(emphasis added). Claims terms may not be cavalierly disregarded.

To interpret the full scope and content of the method Appellant claims, one looks first to the claim language itself. *Phillips v. AWH Corp.*, 415 F.3d at 1312-13. Should the language of the claims appear ambiguous, one looks to the specification for enlightenment, clarification, and definition. *Id.* at 1313-16. The specification is the primary basis for construing the claims. *Id.* at 1315. Further, it is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the “ordinary” and the “customary” meaning of the terms in the claims. *Ferguson Beauregard/Logic Controls, Div. Of Dover Resources, Inc. v. Mega Systems, LLC*, 350 F.3d 1327, 1338, (Fed. Cir. 2003). Paragraph [0037] of Applicant’s disclosure notes a “dampening mechanism is attached to the receptacle station 304 for controlling the speed at which the receptacle station 304 travels as it travels into and out of the housing 302” and that “[t]he damping mechanism . . . prevents the moveable receptacle station 304 from traveling too rapidly into and out of the housing 302.” One of ordinary skill in the art would not interpret the claimed “damping mechanism” as including within its scope environmental “friction” or air resistance or the like. The Examiner’s interpretation of claims 1-2 and 4 is at odds with the specification disclosure and is not reasonable, as adjudged by appropriate canons of claim construction and pertinent case law.

Further, claim 4 recites that “the dampening mechanism comprises a first end coupled to the housing and a second end coupled to the coin receptacle station.” Hino fails to disclose a

“dampening mechanism comprises a first end coupled to the housing and a second end coupled to the coin receptacle station.” The Examiner’s citation of frictional force between a wheel 122b of Hino and a floor or of possible interference between the outer surfaces of the coin processing unit 110 and the storage unit 120 fails to discharge the burden incumbent upon the Examiner to show that every element of the claimed invention is identically shown therein. *See, e.g., Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

### III. THE 35 U.S.C. § 103 REJECTION OF CLAIM 3

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hino in view of Jones *et al.* (US 6,318,537) (“Jones”). Reconsideration and withdrawal of this rejection is requested.

As with claim 1, above, claim 3 recites a coin processing device comprising, *inter alia*, “a dampening mechanism configured to exert a damping force on the coin receptacle station during movement of the coin receptacle from the first position to the second position and from the second position to the first position.” As noted above, even as Hino is construed by the Examiner, Hino cannot be reasonably said to disclose or suggest this feature. Jones, cited for a teaching of a coin bag 52 and coin bag holder, has not been shown to make up for this deficiency.

Accordingly, it is submitted that the combination of Hino and Jones fails to identically teach or suggest each and every element of claim 3 and, in view of at least the foregoing remarks, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### **IV. THE 35 U.S.C. § 103 REJECTION OF CLAIMS 5, 7-9, 25, 27, AND 33-34**

Claims 5, 7-9, 25, 27 and 33-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hino in view of Muellner (US 4,450,968) ("Muellner"). Reconsideration and withdrawal of this rejection is requested.

##### **A. CLAIMS 5 AND 7-9**

Claims 5 and 7-9 recite, *inter alia*, "a coin receptacle station disposed within the housing for holding a plurality of coin receptacles, the coin receptacle station including a plurality of individually moveable platforms each having at least one coin receptacle disposed thereon, each moveable platform being moveable between a first position and a second position, each moveable platform being disposed entirely within the housing for receiving coins in the at least one coin receptacle disposed thereon when in the first position, each moveable platform extending out of the housing when in the second position" and "a track along which each moveable platform slides when moving from the first position to the second position and from the second position to the first position," "wherein each of the moveable platforms is at least substantially centered directly over a corresponding track."

Hino shows a single coin receptacle 120 comprising a drawer 122 having disposed thereon detachable coin storing units (124a-124h)(*see* par. [0136]. Casters 122b are attached to the bottom of the drawer 122 (FIG. 4). The Examiner asserts that the drawer 122 satisfies the element of moveable platforms (*see, e.g.,* page 6 of Office Action, citing "moveable platforms (122)"). Muellner shows a shopping cart return rack having a channel 24 into which a wheel 42 of a cart 14 may enter from one side and exit from an opposing side. The Examiner alleges Muellner shows a "similar device" having a track (portion T1 of FIG. G1 in Office Action) for the purpose of receiving and capturing the casters (*citing* col. 2, lines 57-66). The Examiner

concludes and alleges that “it would have been obvious to a person having ordinary skill in the art at the time the invention to modify Hino as taught by Muellner and include Muellner’s similar device having a track for the purpose of receiving and capturing the casters.” (page 7 of Office Action). Applicant disagrees with the Examiner’s assertions, but nonetheless amends claim 5 to expedite prosecution and/or place the claims in better form for appeal. The combination of Hino and Muellner fail to disclose or suggest, *inter alia*, “a track along which each moveable platform translates when moving from the first position to the second position and from the second position to the first position,” “wherein each of the moveable platforms is at least substantially centered directly over a corresponding track.”

It also bears noting that the Examiner’s statement with respect to claim 34, stating that “the movable platforms (122) is *capable of* being cantilevered” (emphasis in original) does not constitute evidence and is devoid of any teaching or suggestion in either Hino or Muellner. Although a prior art device “may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” See *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992). The Examiner’s showing must be clear and particular. See, e.g., *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements, standing alone, are not “evidence”. *McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578 (Fed. Cir. 1993). Further, the Examiner may only take official notice of facts outside the record which are capable of instant and unquestionable demonstration as being “well-known” in the art. *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970). The Examiner has satisfied no prerequisite necessary to transform the Examiner’s unfounded assertion into evidence.

Hino fails to disclose or suggest (and Muellner certainly does not disclose or suggest), for example, a “coin receptacle station including a *plurality of individually moveable platforms* each



having at least one coin receptacle disposed thereon” (emphasis added). Instead, Hino show only a single drawer 122. The Examiner again argues, in reliance upon MPEP § 2144.04(VI)(B) and *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) cited therein, that individually moveable platforms in Hino would be a mere duplication of parts and, therefore, would have been obvious to one of ordinary skill in the art. The court in *In re Harza* stated that “[i]t is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced, and we are of the opinion that such is not the case here.” *Id.* Although this is not a *per se* rule, the Examiner is improperly treating it as such and has not set forth any evidentiary basis upon which this conclusion may be legitimately founded. It is noted that the Examiner now asserts that “[m]ultiple moveable platforms together in one unit do not function differently than multiple individual platforms provided side by side” (page 12 of Office Action). This assertion is incorrect. Utilization of multiple individual movable platforms in the manner disclosed does function differently than a single movable drawer, such as is provided in Hino, and serves to facilitate access to the coin receptacles contained within a coin processing machine and, depending on which coin receptacle(s) the operator needs to empty, the operator is enabled to slide out one of the moveable platforms 504 at a time (see, e.g., FIG. 6) to access coins contained in the coin receptacle(s) of interest (see, e.g., par. [0051]).

As stated by the Federal Circuit in *In re Ochiai*, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995), “reliance on *per se* rules of obviousness is legally incorrect and must cease.” For a *prima facie* case of obviousness to be established, the teachings from the prior art itself must appear to have suggested the claimed subject matter to one of ordinary skill in the art. See *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976). As noted above, that the prior art “could be” modified is not sufficient to establish a *prima facie* case of

obviousness. *See In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). The Examiner must, and has failed to, explain why the prior art would have suggested to one of ordinary skill in the art the desirability of the modification asserted by the Examiner. *See In re Fritch*, 972 F.2d at 1266, 23 USPQ2d at 1783-84.

The Examiner also takes the position, in page 11 of the Office Action, that “the wheels are not claimed to slide, the **moveable platform is.**” (emphasis in original). The Examiner cites FIG. 4 of Hino, alleging that “122 slides into the compartment of 110”. As noted above, claim 5 explicitly recites “a track along which each moveable platform slides when moving from the first position to the second position and from the second position to the first position, wherein each of the moveable platforms is at least substantially centered directly over a corresponding track.” The “broadest reasonable interpretation” of the claims permitted by law must be consistent with “the interpretation that those skilled in the art would reach.” *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). In this vein, “[c]laims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their ‘broadest reasonable interpretation.’” *In re Marosi*, 710 F.2d 799, 802, 218 USPQ 289, 292 (Fed. Cir. 1983)(*italics added*). The Federal Circuit’s *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized the “broadest reasonable interpretation” standard, stating that:

The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must “conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.” 37 CFR 1.75(d)(1).

415 F.3d at 1316, 75 USPQ2d at 1329. See also *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Claims must be read in view of the specification, of which they are a part. The Examiner in the present case improperly interprets the term “slide” to include a generalized movement of drawer 122 supported by casters 122b. The Examiner thus completely disregards the context of the recited terminology as it is used in the specification and as it would be reasonably interpreted by one of ordinary skill in the art. To wit, Hino’s drawer 122 does not “slide” into the compartment 110. When it is pushed, the casters roll, and the drawer 122 rolls into the compartment.

For at least the above reasons Applicant respectfully submits that the Examiner reconsider and withdraw the asserted *prima facie* case of obviousness of claims 5 and 7-9 under 35 U.S.C. § 103(a).

#### **B. CLAIM 25**

Claim 25 recites, a method for processing coins with a coin processing machine comprising a housing, a coin sorting unit disposed within the housing, and a plurality of moveable coin receptacle platforms each bearing at least one coin receptacle, the coin receptacle platforms each being disposed over a track and each being independently moveable on the track, each moveable coin receptacle platform being disposed entirely within the housing for receiving coins when in a first position. The method comprises the acts of receiving in a coin input region a plurality of coins of a plurality of predetermined denominations, sorting the plurality of coins according to denomination with the coin sorting unit, directing sorted coins to the plurality of coin receptacles, determining, using a controller, if a predetermined number of coins have been discharged to a coin receptacle, automatically terminating coin sorting when said controller determines that a predetermined number of coins have been discharged to said coin receptacle,

sliding the moveable coin receptacle platform bearing said coin receptacle along the track from the first position to permit access to said coin receptacle, removing coins from said coin receptacle, and sliding said moveable coin receptacle platform back to the first position along the track.

Applicants disagree with the Examiner's assertions, but nonetheless amends claim 25 to expedite prosecution and/or place the claims in better form for appeal. Applicants submits that the combination of Hino and Muellner fails to disclose or suggest the combination of features claimed. Reconsideration and withdrawal of this rejection is requested.

### **C. CLAIM 27**

Claim 27 recites a coin processing device, comprising a "coin receptacle station disposed within the housing for holding a plurality of coin receptacles each for receiving discharged coins of a single denomination, the coin receptacle station including a plurality of individually moveable platforms each having at least one coin receptacle disposed thereon, each moveable platform being moveable between a first operable position and a second inoperable position, each moveable platform being disposed entirely within the housing for receiving coins in the at least one coin receptacle disposed thereon when in the first operable position, each moveable platform extending out of the housing when in the second inoperable position," and "a plurality of tracks, each of the plurality of individually moveable platforms being connected to a respective one of the plurality of tracks and being physically constrained to slide only from said first operable position to said second inoperable position and from said second inoperable position to said first operable position along a corresponding one of said plurality of tracks."

Applicants disagree with the Examiner's assertions, but nonetheless amends claim 27 to expedite prosecution and/or place the claims in better form for appeal. Applicants submits that

the combination of Hino and Muellner fails to disclose or suggest the combination of features claimed. Reconsideration and withdrawal of this rejection is requested.

#### **D. CLAIMS 33-34**

Applicant submits that claims 33-34 are patentable over the combination of Hino and Muellner at least based upon their dependency from claim 27, which is submitted to patentably define over the combination of Hino and Muellner.

Further, claims 33-34 independently patentable define over the combination of Hino and Muellner, as this combination fails to disclose or suggest that “each track comprises a stationary first member having a trapezoidal cross-sectional profile and each individually moveable platform comprises a substantially mating profile” (claim 33) or that “in said second inoperable position, said individually moveable platform is substantially cantilevered relative to said track.” (claim 34).

It is further noted that the Examiner’s statement that “a rectangle is a type of trapezoid” is incorrect. A rectangle is a four-sided shape where every angle is a right angle (90°) and where opposite sides are parallel and of equal length. A trapezoid, in contrast, has only one pair of opposite sides parallel and the other pair of opposite sides may or may not be equal in length, but are not parallel. Thus, a rectangle is not a type of trapezoid.

As noted above, the Examiner’s statement that “the movable platforms (122) is *capable* of being cantilevered” (emphasis in original) does not constitute evidence and is devoid of any teaching or suggestion in either Hino or Muellner. Although a prior art device “may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” See *In re Fritch, supra*. Broad conclusory statements, standing alone, are not “evidence.” *McElmurry v. Arkansas Power & Light Co., supra*.

**V. THE 35 U.S.C. § 103 REJECTION OF CLAIMS 14-16 AND 26**

Claims 14-16 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hino in view of Muellner and further in view of Siemens (US 2002/0011393).

Applicant submits that claims 14-16 and 26 are patentable over the combination of Hino, Muellner and Siemens at least based upon their dependency from independent claims 5 and 25, respectively, which are submitted to patentably define over the combination of Hino, Muellner and Siemens. Further, as to claims 15 and 16, which respectively recite the coin processing device of claim 14, wherein “the door is disposed on the rear side of the housing” (claim 15) or “the door is disposed on the front side of the housing” (claim 16), the Examiner alleges with reference to the representation of FIG. 4 on page 4 of the Office Action that “the location of D can be defined as the rear or front side” (see page 8 of Office Action). This statement is unfounded. FIGS. 2 and 4 of Hino clearly define a front of the machine (e.g., facing an operator) and a rear of the machine. Hino does not disclose or suggest that the drawer 122 may be disposed on and removed from a “rear side of the housing,” nor does Muellner or Siemens make up for this deficiency.

Applicants submits that the combination of Hino, Muellner and Siemens fails to disclose or suggest the combination of features recited in claims 14-16 and 26. Reconsideration and withdrawal of this rejection is requested.

**VI. THE 35 U.S.C. § 103 REJECTION OF CLAIMS 10, 12-13 AND 30 AND THE 35 U.S.C. § 103 REJECTION OF CLAIMS 11 AND 31**

Claims 10-13 and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hino in view of Muellner and further in view of Jones, *et al.* (US 6,318,537) (“Jones”).

Claims 10, 12-13 depend from claim 5 and claim 30 depends from claim 27 and are submitted to be patentable over the applied combination of references for at least the reasons noted above. Reconsideration and withdrawal of this rejection is requested for at least the reasons noted above.

It is further noted that obviousness requires a teaching that all elements of the claimed invention are found in the prior art and “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007). “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007)(citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)); see also *Ex parte Smith*, 83 USPQ2d 1509, 1515 (Bd. Pat. App. & Int. 2007).

The mere fact that references can be combined or modified does not itself render the resultant combination obvious. Hino mentions no deficiencies or problems associated with the use of casters 122b for coin drawers and Muellner relates to wheels not casters. Neither Hino nor Muellner nor Jones disclose a track, as disclosed and claimed and the Examiner’s interpretation of the claims, as noted above, must be *reasonable*. Muellner discloses no generally applicability of the disclosed subject matter to anything other than carts used for baggage, packages and groceries. There is no evidence of record supporting the proffered combination, nor has any articulated reasoning with any rational underpinning been advanced in support the legal conclusion of obviousness. Instead, the Examiner merely sets forth a generalized assertion. The Examiner’s burden to set forth a *prima facie* case of obviousness has

not been discharged, as broad conclusory statements, standing alone, are not “evidence” supportive of a *prima facie* showing. See *McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578 (Fed. Cir. 1993).

Reconsideration and withdrawal of the 35 U.S.C. § 103 rejection of claims 10-13 and 30-31 is therefore requested at least upon the above-noted grounds.

## VII. CONCLUSION

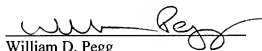
It is the Applicants’ belief that all of the claims are in condition for allowance and action towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Should any fees be required (except for payment of the issue fee) that have not otherwise been expressly authorized and/or paid, the Commissioner is authorized to deduct the fees from Nixon Peabody LLP Deposit Account No. 50-4181, Order No. 247171-000390USPT.

Respectfully submitted,

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Date

  
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